

**BIGFORK LAND USE ADVISORY COMMITTEE (BLUAC)**  
**Approved Minutes Thursday September 24, 2020**  
**Meeting was conducted at Bethany Lutheran Church**

Chairwoman Susan Johnson called the meeting to order at 4:06 p.m.

**Present:** Committee member attendees: Susan Johnson, Chany Ockert, Lou McGuire, Jerry Sorensen, and Shelley Gonzales; Absent: Richard Michaud; Public: 10 members; Flathead County Planning and Zoning (FCPZ): Mark Mussman and Laura Mooney; Brenton Pomeroy (recording secretary candidate).

The agenda was updated as The Zoning Variance (FZV-20-02) application has been pushed to a future BLUAC meeting. The updated agenda was approved (m/s, J. Sorensen/L. McGuire), unanimous.

Minutes of the May 28, 2020 meeting were approved (m/s, C. Ockert/J. Sorensen), unanimous.

**Administrator's Report and Announcements:**

A sign in sheet was provided and emails addresses were requested to ensure distribution of the minutes to those in attendance. Approved minutes and documents are also posted on the County website: [flathead.mt.gov/planning zoning](https://flathead.mt.gov/planning-zoning). Click on [meeting information](#). An update was provided to one of the last applications. The pickleball and event center has broken ground. This will provide a venue for weddings and reunions for up to 500 people. Concern was noted for potential congestion in the vicinity during events and a desire was noted for Montana Department of Transportation to review the road congestion. Additionally, a request was made for those in attendance to assist with sanitizing the facility due to Corona virus concerns and to be sure to speak loud as those present were wearing proactive face masks.

**Public Comment:**

Public comments were opened by S. Johnson. There were no public comments. S. Gonzales questioned FCPZ about letters of sufficiency in general and whether there is one present for the application to be discussed. FCPZ responded that there are letters kept on file and there is a letter kept on file for the application that is dated 31 August 2020.

**Application:**

**FPP-20-17:** The applicant (Michael and Julie Thompson) request preliminary plat approval of a five-lot residential subdivision. The property will be served by individual septic systems and wells. The property is located on Echo Chalet Dr. near Bigfork, MT. Access to each lot will be served by an internal private road.

**NOTE:** Chany Ockert recused herself from this portion of the meeting due to the fact the applicants are her landlords.

**Staff Report:**

Laura Mooney presented the staff report. The application is a request from Michael and Julie Thompson with technical assistance from Sands Surveying and 406 Engineering for preliminary plat approval of Jewel of Echo subdivision. The proposed subdivision would create five residential lots on 25.7 acres when fully developed. The lots would consist of four, 5 acre lots and one, 5.7-acre lot. The property is located just south of 255 Echo Chalet Dr. The primary access will be from the internal subdivision road which will have one primary access point on Echo Chalet Dr. The applicant is requesting a variance for offsite road improvements. The property will be served by individual septic systems and wells. The zoning is SAG-5.

The adjoining property notice was sent September 23<sup>rd</sup> and the legal notice will be published September 27<sup>th</sup> in the Daily Interlake. The notice of the subdivision was posted onsite on September 21<sup>st</sup>. the agency referrals were sent on September 10<sup>th</sup> and to date there have only been two agency and one public comment received.

1. The Bonneville Power Administration did not object to the request.
2. The Flathead City - County Environmental Health Department commented that the proposal is subject to review under Title 76-4, Part 1, MCA. This review will address water supply, wastewater, storm water drainage and solid waste.
3. There has been one public comment received that had concerns with the completion of the staff's report and concerns about water bodies.

(Q) GONZALES: Is the variance request part of the application or a separate issue to be voted upon? (A) MOONEY: The variance request is part of the preliminary plat to be voted upon together.

(Q) SORENSEN: Is the variance handled by the planning board or does it need to go to a board of adjustments and a planning board? (A) MOONEY: It will just go to the planning board.

(Q) SORENSEN: Why is this a major subdivision? Is there a previous subdivision?

(A) MOONEY: yes, it is subsequent major as there was a previous subdivision of two lots.

(Q) GONZALES: What size will the applicants remaining lot be after subdivision

and will it comply with SAG-5 zoning? (A) MULCAHY (Sands Surveying): It will be 8.1 acres and will comply with SAG-5 zoning.

(Q) SORENSEN: What are the standards for the interior road? Is it going to be in

the same location it is today? (A) MOONEY: The internal roadway will be the 60

foot right of way and a minimum 22 feet wide. (A) M. THOMPSON: The road will be where it is currently.

### **Applicant Report:**

Eric Mulcahy presented the applicant report. Eric stated that he represents the applicant Mike Thompson on this project and that the property has been in the Thompson family for quite some time and their house is located on the point of the property. Eric clarified the reason for this application being a “major” is due to two previous transfers to the Thompson’s daughter and son about 5 or 6 years ago and prior to that they had completed a boundary line adjustment.

Eric stated they have been working with Mike for three years on this project. His engineers have put a lot of work into the wastewater management systems working with the DEQ to come up with systems that satisfy all their requirements. His engineers have worked with the DEQ submitting their test information to get predeterminations prior to submitting the application to the county. The Thompson’s take the water quality of Echo lake very seriously and they have spared no expense with their engineers to work through this element.

As to the sufficiency, the application was complete. Eric was under the impression that they did not need a variance because the road is private, and it is substandard to width. It currently serves 75-80 residences past the Thompson’s place and has done so for decades. They have had the fire chief come out to look at the road and he did not see any indications of any problems as there are turnouts along the road and it is a very low-speed drive. Essentially, there is a variance requested for 150 feet of road to be widened 7 feet.

The proposal complies with all aspects of SAG-5 zoning designation, with lot width, lot size, and they are not proposing anything special on the lake shore or any oddities.

(Q) SORENSEN: Do you propose any covenants on the properties? Will there be any setbacks from the lake shore? (A) MULCAHY: Yes, there will be covenants but they do not currently have any setback requirement. Due to the nature of the lot topography, the build sites will likely be at least 75-80 feet back from the high-water mark.

(Q) SORENSEN: Does the property boundary start at the low or high watermark? (A) MULCAHY: It goes to the low watermark.

(Q) JOHNSON: How many people live there year-round and how do you share the road maintenance? (A) M. THOMPSON: I plow my driveway but there is a road maintenance association that we have paid into for 25 years.

**Public Agency Comments:**  
None

**Public Comments:**  
Andrew Kovatch - Andrew requested that a statement be recorded concerning the private road. Echo Chalet Dr. is a dead-end road with no exit on the north end.

Mike Glain – Is there any specific requirements for the new development to have in their CC&R's an obligation to pay into road maintenance because the current situation is all volunteer. For the last 20-30 years it has been all volunteer. The problem with that is maybe 60 percent of the people pay. Now they will have five new residents using the road that may damage the road from construction equipment used to develop their lot. Will they pay for any repairs needed? The road maintenance association only gets enough money per year to pay for snow removal.

Sarah Dakin – They do not have any road users district or formal agreement. It is all voluntary and they have a few people who do not pay each year and want to be plowed out and have fire access. They are concerned with more people moving in and would like to find a way to make them pay either through a condition on the plat or in the covenants. There should be a way to ensure that the new owners are responsible neighbors.

Rosemary Kovatch – How much water frontage will each lot have and what side of the peninsula will it be on?

**Staff Reply:**

The staff did not reply to any public comments

**Applicant Reply:**

E. Mulcahy provided response to the public comments as follows:

Mike Glain and Sarah Dakin: The applicants are not opposed to having a requirement in their CC&R's that obligates the five lots to participate in the road maintenance agreement.

Rosemary Kovatch: The lots will have approximately 400 feet of frontage on the east side and 50 feet of frontage on the west side. The west side frontage is mostly owned by another property owner who has a sliver of property sits between the lake shore and the applicant's property.

(Q) JOHNSON: Is there any way to get all residents to come to a more formal agreement to the maintenance of the road? (A) MULCAHY: We have no leverage to get someone to join the association. They can plead with them to join but that is about all they can do. (A) MUSSMAN: P&Z does require the internal road to have a road maintenance agreement.

(Q) SORENSEN: Do each of the lots on Echo Chalet Dr. have a share of the easement? (A) MULCAHY: Most of the lots should have legal access to the road. They looked at the applicant's property extensively for legal access to the road but not the rest of the lots.

(Q) JOHNSON: Is the dirt road off Echo Chalet the one that needs to be widened? (A) MULCAHY: The dirt road is the current driveway to the applicant's property. This will be paved to a full 22-foot road with full 60 foot right of way. Echo Chalet Dr. is currently paved but only 15 feet wide with a 30-foot easement.

**Committee Discussion:**

Sorensen expressed his concern for the road maintenance agreement and asked for someone to explain how the road maintenance association works and how they came up with the fees.

Andrew Kovatch provided historical data concerning the Echo Chalet Dr. Maintenance Association. He stated that originally the road was a dirt road. There

is a committee that manages the maintenance of the road that Andrew served on. The road was paved about 18 or 19 years ago. They collected money for the paving committee based on lot width on the road. The fee was \$500 per 100 feet of property on Echo Chalet Dr. and they collected about 18K from about 70 percent of the owners. This did not pave the entire road. There was a second committee that collected money to finish paving the rest of the road.

### **Findings of Fact:**

Sorensen initiated some discussion on amending finding #4 to include a requirement for participation in road maintenance. Since the road maintenance requirement is covered under the conditions section of the report, finding of fact #4 was deemed acceptable.

Sorensen had concern on riparian areas in finding #11. The applicant agreed to a 50-foot setback if required. The current requirement is 20 foot. M. Mussman stated that the committee was applying zoning regulations on subdivision requirements. He suggested that BLUAC could amend the finding to include that the applicant voluntarily implement a setback. There was additional discussion on how a setback is figured horizontally. Sorensen agreed that since the applicant understands the issue and is agreeable to a setback, he is okay with finding #11.

L. McGuire had concern with finding #16 and the road width. Discussion was had concerning the variance and issues with fire response. Since the Fire Chief has already been out to view the road without any concerns and the fact the road has at least 6 turnouts, it was agreed to leave finding #16 as is.

Sorensen moved to amend Findings of Fact #19 to state “The preliminary plat appears to include adequate provisions for legal and physical access to the subdivision and all lots within it because the existing private road will provide legal and physical access to the proposed lots.”

Gonzales moved to adopt the Findings of Fact with #19 as amended, second McGuire, approved unanimously. Sorensen moved to accept the conditions, second McGuire, approved unanimously.

Gonzales moved to accept the project specific conditions, second McGuire, approved unanimously.

**Committee Discussion and Vote:** Gonzales moved to forward a recommendation to the Planning Board to approve FPP-20-17. Motion was seconded by McGuire, motion passed unanimously.

**Old Business:**

None

**New Business:**

None

**Adjourn:**

The meeting adjourned at 5:24 p.m.

Respectfully submitted by Shelley Gonzales, Member, prepared by Brenton Pomeroy, Recording Secretary Candidate